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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,215	06/15/2001	Peter A. Crooks	50229-267	5136

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MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

KIM, VICKIE Y

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/881,215

Applicant(s)

CROOKS ET AL.

Examiner

Vickie Kim

Art Unit

1614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 5,7,9,11 and 13-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

**VICKIE KIM
PRIMARY EXAMINER**Vickie Kim
Primary Examiner
Art Unit: 1614

Continuation of 5. does NOT place the application in condition for allowance because: the claimed invention is not patentably distinct over the prior art (103 rejection over Uzbay et al in view of Rajasekaran). Applicant's argument is partially persuasive and thus, 103 rejection over Wada et al is withdrawn hereinafter. However, applicant's argument in reference to the teaching of Uzbay et al in view of Rajasekaran is not persuasive due to the reasons of the record. It is emphasized again that seizure is a syndrome not a disease. Therefore, one would have been reasonably expected that an effective seizure treatment can be achieved by a drug therapy regardless its causes (pathogenic diseases or conditions). For example, aspirin or tylenol can be used for treating pain and/or fever regardless its causes. It is noted that pathogenesis of seizure utilizes same biological mechanism. Thus, the treatment of seizure can be same regardless of causes. Because Uzbay's teaching (i.e. seizure treatment in patient with ethanol withdrawal achieved by agmatine administration) is consistent with Rajasekaran's teaching (i.e. seizure treatment in epileptic patient by L-arginine and its metabolite, agmatine) wherein both teachings suggest anticonvulsant effect of agmatine involves inhibition of NO synthesis. One would have been motivated to try agmatine to treat seizures and readily anticipated the similar anticonvulsant effects against seizures either caused by ethanol withdrawal or epilepsy.